### BEFORE THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

SARAH NICOLE GALLAGHER

Case No. 2012-589

Respondent

#### **DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary order for Public Reproval is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on October 19, 2012.

IT IS SO ORDERED September 21, 2012.

Raymond Mallel, President Board of Registered Nursing Department of Consumer Affairs

State of California

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1	Kamala D. Harris Attorney General of California
2	DIANN ŠOKOLOFF
3	Supervising Deputy Attorney General State Bar No. 161082
4	1515 Clay Street, 20th Floor P.O. Box 70550
	Oakland, CA 94612-0550
5	Telephone: (510) 622-2212 Facsimile: (510) 622-2270
6	Attorneys for Complainant
7	BEFORE THE
8	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS
9	STATE OF CALIFORNIA
	In the Matter of the Statement of Issues
10	Against: Case No. 2012-589
11	SARAH NICOLE GALLAGHER  STIPULATED SETTLEMENT AND DISCIPLINARY ORDER FOR PUBLIC
12	6450 Dougherty Road, Apt 923 Dublin, CA 94568  REPROVAL
13	[Bus. & Prof. Code § 495]
14	Respondent.
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	VELIC AND EDAY CERTIFICATION AND A CIDED I
16	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
17	entitled proceedings that the following matters are true:
18	<u>PARTIES</u>
19	1. LOUISE R. BAILEY, M.ED., RN (Complainant) is the Interim Executive Officer of
20	the Board of Registered Nursing. She brought this action solely in her official capacity and is
21	represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
22	Diann Sokoloff, Supervising Deputy Attorney General.
23	2. Respondent Sarah Nicole Gallagher (Respondent) is represented in this proceeding by
24	attorney Samuel Spital, whose address is:
25	
. 26	Spital and Associates 8880 Rio San Diego Drive, Suite 800
27	San Diego, CA 92108-1642
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STIPULATED SETTLEMENT (Case No. 2012-589)

#### JURISDICTION

3. Statement of Issues No. 2012-589 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on April 16, 2012. A copy of Statement of Issues No. 2012-589 is attached as exhibit A and incorporated by reference.

## ADVISEMENT AND WAIVERS

- 4. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Statement of Issues No. 2012-589. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order for Public Reproval.
- 5. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 6. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

#### **CULPABILITY**

- 7. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. 2012-589.
- 8. Respondent agrees that her Registered Nurse License is subject to denial and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

#### CONTINGENCY

9. This stipulation shall be subject to approval by the Board of Registered Nursing.

Respondent understands and agrees that counsel for Complainant and the staff of the Board of

Registered Nursing may communicate directly with the Board regarding this stipulation and
settlement, without notice to or participation by Respondent or her counsel. By signing the
stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
Order for Public Reproval shall be of no force or effect, except for this paragraph, it shall be
inadmissible in any legal action between the parties, and the Board shall not be disqualified from
further action by having considered this matter.

- 10. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order for Public Reproval, including facsimile signatures thereto, shall have the same force and effect as the originals.
- 11. This Stipulated Settlement and Disciplinary Order for Public Reproval is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order for Public Reproval may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.
- 12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

#### **DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that the application of Respondent Sarah Nicole Gallagher for licensure is hereby granted. Upon successful completion of the licensure examination and all other licensing requirements, a license shall be issued to Respondent. Said license shall, by way of letter from the Board's Interim Executive Officer, be publicly reproved. The letter shall be in the same form as the letter attached as exhibit B to this stipulation.

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#### AGGERTANGE

They example the above Stipulated Settlement and Disciplinary Order for Public Reproval and have fully discussed in with my attorney. Samuel Spital. I understand the stipulation and the offect it Willihave on my Registered Nimee License. I enter into this Stipulated Settlement and Disciplinary Order for Rubble Reproval voluntarity, knowlingly, and intelligently and agree to be bound by the Decision and Order of the Board of Rogistored Nursing

DATED

Respondent

I have read and fully discussed with Respondent Sarah Nicole Gallagher the terms and conditions and other matters contained in the above Shipulated Settlement and Disciplinary Order for Public Reproval. Lapprova its form and content.

DATED:

Attorney for Respondent

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endorsement

The foregoing Supulated Semisment and Disciplinary Order for Public Keproval's hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of

19 Consumer Affairs

Detodic 12/22/12

Respectfully submitted.

Kamala D. Harris

Actories Ceneral of California

DIAMN SOKOLOFF

Supergeng Bepary Anomey General Attorneys for Complainan

SF2012401102 Stipulation for public reproval rtf.

Exhibit A

Statement of Issues No. 2012-589

1	Kamala D. Harris
2	Attorney General of California DIANN SOKOLOFF
3	Supervising Deputy Attorney General State Bar No. 161082
	1515 Clay Street, 20th Floor
4	P.O. Box 70550 Oakland, CA 94612-0550
5	Telephone: (510) 622-2212 Facsimile: (510) 622-2270
6	Attorneys for Complainant
7	BEFORE THE BOARD OF REGISTERED NURSING
8	DEPARTMENT OF CONSUMER AFFAIRS
9	STATE OF CALIFORNIA
10	In the Matter of the Statement of Issues Case No. 2012-589
11	Against: STATEMENT OF ISSUES
12	Sarah Nicole Gallagher
13	
14	Respondent.
15	Complainant alleges:
16	<u>PARTIES</u>
17	1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
18	her official capacity as the Interim Executive Officer of the Board of Registered Nursing,
19	Department of Consumer Affairs.
20	2. On or about March 24, 2011, the Board of Registered Nursing, Department of
21	Consumer Affairs received an application for a Registered Nurse License from Sarah Nicole
22	Gallagher (Respondent). On or about March 19, 2011, Sarah Nicole Gallgher certified under
23	penalty of perjury to the truthfulness of all statements, answers, and representations in the
24	application. The Board denied the application on September 15, 2011.
25	<u>JURISDICTION</u>
26	3. This Statement of Issues is brought before the Board of Registered Nursing (Board),
27	Department of Consumer Affairs, under the authority of the following laws. All section
28	references are to the Business and Professions Code unless otherwise indicated.
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4. Section 2736 of the Code provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that code.

#### STATUTORY/REGULATORY PROVISIONS

5. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following:
- "(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."
  - 6. Section 480 of the Code states:
- "(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:
- "(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.
- "(3)(a) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license."
- 7. California Code of Regulations, title 16, section 1444, states, in pertinent part, that a conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare.

#### FIRST CAUSE FOR DENIAL OF APPLICATION

(Conviction of a Crime)

- 8. Respondent's application is subject to denial under sections 480, subdivisions (a)(1) and 2761, subdivision (f), in that on or about October 17, 2007, in a criminal proceeding entitled *People of the State of California* v. *Sarah Nicole Gallagher*, in the Superior Court of the State of California, County of Alameda, Case Number 221426, Respondent was convicted of violating Penal Code section 415(1) (disturbance of the peace). The circumstances are as follows:
- a. On or about October 22, 2006, Respondent was arrested for violating Penal Code section 242 (misdemeanor battery) for fighting in a public place. Respondent admitted to injuring another woman by punching her four to five times in the face. Respondent also admitted to vandalizing the victim's car a year prior.
- b. On or about October 17, 2007, Respondent was sentenced to serve one day in county jail, two years probation, and pay a fine in the amount of \$250.00.

## SECOND CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct – Fighting in Public)

9. Respondent's application is subject to denial under Code section 2761, subdivision (a) on the grounds of unprofessional conduct, in that on or about October 22, 2006, she was arrested for fighting in a public as set forth in paragraph 9, subparagraph (a), above.

# THIRD CAUSE FOR DENIAL OF APPLICATION

(Committed Acts Which Constitute Grounds for Discipline)

10. Respondent's application is subject to denial under Code section 480, subdivision
(a)(3), in that Respondent committed acts which if done by a licentiate of the profession would
constitute grounds for discipline. Respondent's conduct as described in paragraph 9, above,
constitutes grounds for discipline under Code sections 2761, subdivision (a) (unprofessional
conduct) and 2761, subdivision (f) (conviction of a substantially related offense).

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#### AGGRAVATING CIRCUMSTANCES

describes the events surrounding her October 2006 arrest and subsequent conviction. However, a copy of the original arrest report establishes that Respondent's version of events in her March 2011 letter was considerably different than those described in the original arrest report. On August 8, 2011, Respondent submitted another letter to the Board in which she completely changed her account of the events surrounding her arrest and conviction to more closely resemble those on the original arrest report.

#### **PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Denying the application of Sarah Nicole Gallagher for a Registered Nurse License;
- 2. Taking such other and further action as deemed necessary and proper.

DATED: April 2, 2012

LOUISE R. BAILEY, M.ED., RN

Interim Executive Officer Board of Registered Nursing Department of Consumer Affairs

State of California Complainant

SF2012401102 statement of issues.rtf

# Exhibit B

Letter of Public Reproval in Case No. 2012-589



STATE AND CONSUMER SERVICES AGENCY . GOVERNOR EDMUND G. BROWN JR

Board of Registered Nursing
P O Box 944210, Sacramento, CA 94244-2100
P (916) 322-3350 | www.rn.ca.gov
Louise R. Bailey, M.ED., RN, Executive Officer



September 21, 2012

Sarah Nicole Gallagher 140 Flora Ave. #217 Walnut Creek, CA 94595

RE:

LETTER OF PUBLIC REPROVAL

In the Matter of the Statement of Issues Against: Sarah Nicole Gallagher

Dear Ms. Gallagher:

On April 2, 2012, the Board of Registered Nursing, Department of Consumer Affairs, State of California, filed a Statement of Issues against your application for a Registered Nurse License. The Statement of Issues alleged that you engaged in unprofessional conduct under Business and Professions Code 2761, subdivisions (a) and (f). On October 22, 2006, you were arrested for violating Penal Code section 242 (misdemeanor battery) for fighting in a public place.

Taking into consideration the age of the offense and that there were other mitigating circumstances in this case that support the determination that you are safe to practice registered nursing, the Board has decided that the charges warrant a public reproval.

Accordingly, to resolve this matter under the authority provided under Business and Professions Code section 495, the Board of Registered Nursing, Department of Consumer Affairs issues this letter of public reproval.

Sincerely,

LOUISÈ R. BAILEY, M.ED., R.N.

**Executive Officer** 

Board of Registered Nursing

Department of Consumer Affairs

State of California